

through no fault of their own, have lost a job and now, as the economy is getting back on track, need support for a few months longer so they can get a job and go back to work. It is a commonsense bill to help our economy get back on track. When we originally brought this bill to the floor, every single Republican said no to supporting our communities. Instead of walking away on this side, instead of furthering their goal of partisan gridlock, we extended a hand to our minority colleagues and worked with them. We trimmed sections they wanted trimmed. We reduced the support we thought was important for our families, but we reduced it in order to get their support and brought it back to the floor again. But once again, they said no to American families. So we went back and a third time trimmed it back even further. We did exactly what they asked us to do.

Now I am saying to our Republican colleagues, it is time to stop saying no. It is time to stop saying no to clean energy companies in my home State and across the country that depend on these tax credits to stay competitive. It is time to say stop saying no to the thousands of police officers and corrections officers and so many others who will lose their jobs in my home State and everywhere if this bill does not pass and our State has to further slash its budget. It is time to stop saying no to the men and women across the country who are desperately trying to find work today but need a little more help to keep their heads above water in these tough economic times. It is time to stop saying no to middle-class families across Washington State who depend on that sales tax deduction that would be extended in this underlying bill to help. They will be out hundreds of millions of dollars if this bill continues to be blocked.

We have tried very hard. Senator BAUCUS, chairman of the Finance Committee, deserves our gratitude for reaching across the aisle time and time again to work with the other side. We have compromised, and then we compromised again and then again. It is disheartening that the other side has refused to work with us. I say enough already. I go back home to Washington State every weekend. I talk to my constituents. I try to explain what we are doing here in Washington, DC. To be honest, I am having a heck of a lot of trouble explaining why when big banks and Wall Street were on the brink of failure and threatening to blow up our economy, Republicans immediately came together with us to help step us back from the brink. But now that Wall Street is fine, regular families and communities are continuing to struggle, those same Republicans are nowhere to be found. I don't have an answer for the families at home who ask me about this. Quite honestly, I don't get it myself. Because the fact is, we have had put together a bill that is fully paid for with the exception of un-

employment benefits, that is a direct stimulus to the economy, that has been passed as emergency spending time and time again under both Democratic and Republican control, because that is exactly what it is. We have done all we can. If those on the other side say no again, it is pretty clear to me they are putting their interests before the interests of our hard-working families who are struggling today.

I know in the State of the Presiding Officer and in my State families are hurting. They are fighting every day to stay on their feet. I am not going to stop fighting to be on their side. There is a tremendous lot at stake in this bill.

I urge all of my colleagues to follow our example and put families and communities and States above partisan politics and goals and work with us to pass this bill so hundreds and thousands of American families can wake up tomorrow and know the Senate was on their side.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WICKER. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF ELENA KAGAN

Mr. WICKER. Mr. President, I rise today to speak briefly on the upcoming hearings the Judiciary Committee will hold on President Obama's nomination of Elena Kagan to be a Justice on the U.S. Supreme Court. I am not a member of the Senate Judiciary Committee, and I do not envy the difficult task before the committee members. However, I would like to highlight a few things I will be watching, as a Member of this body with the constitutional duty to advise and consent, and listening for as Ms. Kagan's nomination hearings begin on Monday.

First and foremost, I will be listening for indications on how closely Ms. Kagan will adhere to the Constitution and the laws of our Nation as written. The judicial oath requires judges to apply the law impartially to the facts before them—without respect to their social, moral, or political views.

Although Ms. Kagan certainly has an impressive resume in academia and as a political adviser in the Clinton and Obama administrations, she lacks key courtroom experience as either a judge or as a private lawyer. Therefore, it is appropriate and vitally important that members of the committee perform their due diligence to question her judicial philosophy.

This is a line of questioning that Ms. Kagan herself has endorsed. In a 1995

University of Chicago Law Review article, she wrote:

The kind of inquiry that would contribute most to understanding and evaluating a nomination is . . . discussion first, of the nominee's broad judicial philosophy and second, of her views on particular constitutional issues. By "judicial philosophy" . . . I mean such things as the judge's understanding of the role of courts in our society, of the nature and values embodied in our Constitution, and of the proper tools and techniques of interpretation, both constitutional and statutory.

I could not agree more with Ms. Kagan. I hope she will live up to her own measuring stick and provide the Senate with the open and constructive answers which she has herself advocated.

In addition to her general judicial philosophy, I hope my colleagues on the Judiciary Committee will question Ms. Kagan on two specific issues important to many Americans and many of my constituents in the State of Mississippi; that is, her views on abortion and the second amendment.

I am concerned that many of the documents from Ms. Kagan's service as a law clerk for the late Justice Marshall and as a political adviser during the Clinton administration reflect a troubling bias.

Two years ago, the Supreme Court ruled, in *District of Columbia v. Heller*, that the second amendment guarantees an individual's right to keep and bear arms. Ms. Kagan has said publicly that she views *Heller* as settled precedent of the Court. But as a law clerk for Justice Marshall, Ms. Kagan wrote a strikingly personal memo on gun rights.

The case in question on that earlier occasion challenged the District of Columbia's handgun ban that was markedly similar to the *Heller* case. In her 1987 memo urging Justice Marshall to vote against hearing the case, Ms. Kagan stated:

[The petitioner's] sole contention is that the District of Columbia's firearm statutes violate his constitutional right "to keep and bear arms." I'm not sympathetic.

The recommendation itself is troubling, but the personal note she employed is even more disturbing. Rather than pointing to text and precedent, rooting her analysis in law or looking to the Constitution, Ms. Kagan chose the personal pronoun saying: "I'm not sympathetic."

This should concern Senators because it seems to indicate a personal aversion to the right to bear arms. I hope members of the committee will question Ms. Kagan on this issue.

Ms. Kagan's work in the Clinton administration raises further questions about her views of the second amendment. According to records at the Clinton Presidential Library in Little Rock, Ms. Kagan was a key adviser to President Clinton on gun control efforts. She drafted an Executive order restricting the importation of certain semiautomatic rifles and was involved in the creation of another order requiring all Federal law enforcement officers to install locks on their weapons.